

## *Frequently Asked QUESTIONS...*

- ① *As a licensee, am I required to use this AREC Agency Representation pamphlet and/or disclosure form?*
  - No. The AREC Agency Representation pamphlet and disclosure form is a tool that real estate agents may use to ensure their compliance with Commission Regulations 8.1, 8.2 and 8.3. An agent may certainly use alternative forms and/or procedures to comply with these regulations.
- ② *Can I distribute the brochure for informational purposes only?*
  - Yes. If you have other methods of disclosing your agency representation but would like to distribute the Agency Representation information displayed on the first two panels, discard the disclosure portion and distribute the Agency Representation information only.
- ③ *What's the best way to use the disclosure form?*
  - When Option 1 of the disclosure form is applicable, the person that you do not represent should sign as receiving the agency disclosure.
  - When Option 2 of the disclosure form is applicable, all persons receiving the disclosure should each sign a form.

**Reminder:** Regulations 8.1 and 8.2 require you to disclose who you represent to the other party in the transaction. These regulations allow you to verbally disclose and requires that you confirm in writing that you verbally disclosed your agency relationship before the party signs the real estate contract or lease.

### **Arkansas Real Estate Commission**

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# AGENCY REPRESENTATION



*Who Do  
REAL  
ESTATE  
AGENTS  
REPRESENT?*

ARKANSAS  
Real Estate Commission  
June 2002

## Agency Representation Information

### Who Do Real Estate Agents Represent In A Real Estate Transaction?

Arkansas law requires real estate agents to clearly disclose to all parties in a real estate transaction which party(s) he or she is representing. Real Estate Agents typically represent Sellers but can also represent Buyers as well as both Buyers and Sellers. Information about the different types of real estate representation practiced in Arkansas is listed below. You may be asked to sign an Agency Representation Disclosure Form to confirm that the Real Estate Agent identified on the form disclosed to you before you signed any document related to the transaction who he or she is representing in a real estate transaction.

### What Does It Mean to Represent A Seller?

A real estate agent who enters into an agreement to sell property for an owner is known as the "Listing Agent" or "Agent for the Seller." A Listing or Seller's Agent represents the Sellers in the transaction. That means that the Listing or Seller's Agent may assist the Buyer who is not represented in purchasing the property, but the Listing or Seller's Agent's primary duty is to protect and promote the interests of the Seller. As a Buyer not represented by a Real Estate Agent you should keep any information that may place you at a disadvantage in negotiations confidential and undisclosed to the Seller or the Seller's Agent since that Seller's Agent has a duty to pass that information on to the Seller. Confidential information may include the Buyer's real estate needs or motivations, the highest price the Buyer is willing to offer, negotiating strategies or tactics, or financial situation.

### What Does It Mean to Represent A Buyer?

A real estate agent who enters into an agreement to only represent the Buyer in a real estate transaction is known as the "Buyer's Agent." A Buyer's Agent represents the Buyer in the transaction. That means that the Buyer's Agent may assist the Seller who is not represented in selling the property, or deal with the Seller's Agent, but the Buyer's Agent's primary duty is to protect and promote the interests of the Buyer. As a Seller not represented by a Real Estate Agent you should keep any information that may place you at a disadvantage in negotiations confidential and undisclosed to the Buyer or the Buyer's Agent since that Buyer's Agent has a duty to pass that information on to the Buyer. Confidential information may include the Seller's reason or motivation for selling, the lowest price the Seller will accept, negotiating strategies or tactics, or financial situation.

### What Does It Mean to Represent Both Seller and Buyer?

A Real Estate Agent who enters into an agreement to represent the Seller and also enters into an agreement to represent the Buyer in the same transaction is known as a "Dual Agent." A Dual Agency most frequently occurs when a Real Estate Agent or Agents within the same real estate firm represent both Seller and Buyer in the same transaction. Both Seller and Buyer must have given their written consent to such dual representation prior to or at the time of execution of any Agency Agreement, Listing Agreement, or Real Estate Contract. Both Seller and Buyer should be aware that a possible conflict of interest may exist in this type of representation. A Dual Agent limits the duties described above in representing the Seller and Buyer by written agreements found in the Agency Agreement, Listing Agreement, or Real Estate Contract. For instance, when representing both Seller and Buyer the Dual Agent would not disclose to one party confidential information obtained from the other party.

## AGENCY REPRESENTATION DISCLOSURE FORM

Real Estate Agent

Real Estate Firm

Real Estate Transaction Address

City, State, Zip Code

The Real Estate Agent named above:  
**(Please initial the appropriate response)**

1) \_\_\_\_\_ Does not represent you in this real estate transaction but represents only the (\_\_\_\_ Buyer) or (\_\_\_\_ Seller).

**OR**

2) \_\_\_\_\_ Represents all parties to this real estate transaction as you previously consented to by a separate written agency agreement.

Name of Party Receiving Agency Disclosure

I acknowledge that I am aware of and understand the disclosure information presented above.

Signature of Party Receiving Agency Disclosure

Date

**THIS IS NOT A CONTRACT  
OR AGENCY AGREEMENT**